



# Rochester Police Department

## General Order



Exhibit O

EFFECTIVE DATE: <b>August 29, 2017</b>	SUBJECT: <b>USE OF DEADLY PHYSICAL FORCE</b>	ORDER# <b>340</b>
RESCINDS: G.O. 340 (04/20/15)	REFERENCE STANDARD(S):  <b>NYS: 14.1,.4;20.1,.4-.7;21.1,.2;32.4;40.2</b>	PAGE <b>1 of 15</b>
ATTACHMENT(S): Firearms Discharge Reporting Guidelines		
Chief's Signature: <i>Michael L. Ciminelli</i>		

### I. DEFINITIONS

No definitions listed.

### II. POLICY

- A. Members of the Rochester Police Department (RPD) may use deadly physical force, as defined by Article 10 of the New York State Penal Law, only when the use of deadly physical force is necessary to defend the member or another person from what the member reasonably believes to be the use or imminent use of deadly physical force.

Reasonable belief exists when both of the following subjective and objective conditions are met:

1. The member reasonably believes another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend himself or another person, and
2. Evidence or information which appears reliable discloses facts circumstance which are collectively of such weight and persuasiveness as to convince a member of ordinary intelligence, training, judgment, and experience that another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend himself or another person.

- B. Members of the RPD may use Kinetic Energy Impact Projectiles (KEIP), commonly known as "Bean Bag Rounds", as a means of less lethal force in non-deadly use of force situations. KEIP are intended to

COR 000093

SUBJECT: Use of Deadly Physical Force	ORDER# 340	PAGE# 2
--	---------------	------------

provide a member with a less lethal alternative to safely take into custody violent or dangerous persons by allowing members to deliver impact projectiles from an extended range. Only those members that have successfully completed an annual training course and have demonstrated proficiency in the use of KEIP will be authorized to deploy same. The impact projectiles are designed to incapacitate a subject with a minimal potential for causing death or serious physical injury compared to standard projectiles when used consistent with training. However, members must recognize that a potential for death or serious physical injury from these impact projectiles does exist, and that care must be exercised in their use.

- C. The Pepperball Launching System (PLS) may be used as a means of less lethal force. The PLS delivers an irritant, Capsaicin II, by means of a compressed gas propellant. Only those members that have successfully completed an annual PLS training course and have demonstrated proficiency in the use of PLS will be authorized to deploy same. Its primary use is to disperse groups engaged in civil disorder from a safe distance, but also allows members to take violent or dangerous individuals into custody. Nothing shall preclude it from being used in other situations in accordance with current directives and training.
- D. Conducted Electrical Weapons (CEW) may be used as a means of less lethal force in accordance with current directives and training. Only those members that have successfully completed the specific Department approved training and have demonstrated proficiency in the use of CEW's will be authorized to deploy same. *See* Taser Conducted Electrical Weapon Standard Operating Procedure.
- E. Less lethal force will be consistent with Departmental training and use of force continuum.
- F. The fact that a member is justified in using deadly physical force or less lethal force does not relieve the member from the duty to act with due regard for the safety of all persons, nor will such provisions protect members from the consequences of their reckless disregard for the safety of other.

### III. FIREARM GUIDELINES

- A. Members are justified in removing firearms from holsters and/or gun mounts and pointing the firearm if the member reasonably believes:

COR 000094

SUBJECT: Use of Deadly Physical Force	ORDER# 340	PAGE# 3
--	---------------	------------

1. That a person or a situation poses or may pose an immediate threat of death or serious physical injury either to themselves or another person.
  2. There is justification to use a firearm against an animal pursuant to Section III.B below.
- B. Members may use firearms against animals when they are:
1. Attacking or presenting an imminent danger to any person.
  2. Destructive, injured, or threatening, with supervisory approval when there is time to obtain it.
- C. Warning shots are prohibited.
- D. Discharge of a firearm from or at a moving vehicle is prohibited unless the member reasonably believes that the occupant(s) of the vehicle are using or are about to use deadly physical force against the member or another person. Therefore, shooting at a fleeing vehicle that is traveling away from the member and is no longer a threat to the member or a third person is prohibited.

#### IV. GUIDELINES - PATROL RIFLE

- A. Only those members who have successfully completed the specific Department-approved Designated Rifleman training and have demonstrated weapon proficiency will be authorized to carry a patrol rifle on duty.
- B. Patrol Rifles will be signed out only by Designated Riflemen and will be physically and visually inspected at the beginning and the end of each tour of duty.
- C. During the tour of duty, the patrol rifle will be secured in a vehicle mount with the safety "on", bolt forward on an empty chamber and a loaded magazine in the magazine well.
- D. Upon completion of each tour, every patrol rifle will be stored in locked safes located at each Section/Unit, unloaded with the magazine removed and bolt locked open.
- E. The decision to deploy the rifle will be made by the Designated Rifleman and/or the supervisor on scene. Typical deployments would

COR 000095